

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ALFRED A. SANDOVAL,)	No. C 08-0865 JSW (PR)
)	
Plaintiff,)	ORDER OF DISMISSAL
)	
v.)	
)	(Docket Nos. 58, 60)
D. BARNEBURG, et al.,)	
)	
Defendants.)	

INTRODUCTION

Plaintiff, a California prisoner, filed this pro se civil rights complaint under 42 U.S.C § 1983 against 21 individual Defendants. On May 7, 2008, after reviewing the complaint pursuant to 28 U.S.C. § 1915A, the Court found that it stated cognizable claims against 11 Defendants but not against the other 10. On July 30, 2008, Plaintiff filed his first amended complaint, naming 31 Defendants. On March 30, 2009, the Court found that the first amended complaint stated cognizable claims against 12 new Defendants, and dismissed the claims against the other new Defendants. On May 29, 2009, the served Defendants moved to dismiss. The motion was granted, but Plaintiff was given further leave to amend. Plaintiff filed a timely second amended complaint.

DISCUSSION

The first amended complaint was dismissed because it set forth a series of claims and Defendants who were not properly joined under Rules 18 and 20 of the Federal

1 Rules of Civil Procedure. Rule 18 provides, “[a] party asserting a claim, counterclaim,
2 crossclaim, or third-party claim may join, as independent or alternative claims, as many
3 claims as it has against an opposing party.” F. R. Civ. Pro 18(a). Rule 20 provides:

4 All persons. . . may be joined in one action as defendants if there is asserted
5 against them jointly, severally, or in the alternative, any right to relief
6 arising out of the same transaction, occurrence or series of transactions or
occurrences and if any question of law or fact common to all defendants
will arise in the action.

7 F. R. Civ. P. 20(a). The first amended complaint asserted claims against numerous
8 Defendants regarding the use of excessive force, retaliation, creation of a “gang
9 corridor,” interference with mail, as well as deliberate indifference to serious medical
10 needs. Because the allegations in the first amended complaint indicated that these claims
11 did not arise out of the same transaction, occurrence or series of occurrences, and
12 Plaintiff had not alleged a common question of law or fact as to all Defendants, the Court
13 found the claims and Defendants improperly joined. There was, furthermore, no way to
14 discern what claims Plaintiff would want to drop or keep, *see* Fed. R. Civ. P. 21, and
15 therefore the first amended complaint was dismissed with leave for Plaintiff to further
16 amend to include only those claims and defendants that are properly joined under Rules
17 18 and 20.

18 Plaintiff’s second amended complaint repeats the same unrelated claims that were
19 in the first amended complaint. Once again, Plaintiff raises claims of excessive force,
20 retaliation, interference with mail, improper creation of a “gang corridor,” improper
21 denial of administrative grievances, and insufficient medical care, claims that arise out of
22 unrelated transactions and occurrences. Plaintiff was instructed that if wanted to
23 continue to pursue unrelated claims, he must do so by raising them in separate
24 complaints filed in separate actions. He has ignored that instruction.

25 The second amended complaint also has not cured two other deficiencies that he
26 was instructed to cure in order to proceed. He was instructed to refrain from repeatedly
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1 discussing how unidentified "Defendants" have injured him, as he has done in the first
2 amended complaint, but rather to identify which actions of each individual Defendant
3 violated his rights with regard to each of his stated claims. Plaintiff has not done so. In
4 the portion of the second amended complaint listing his claims, he continues to state that
5 unidentified "Defendants" generally are liable with respect to each asserted violation.

6 Plaintiff was instructed that the failure to correct the deficiencies in his first
7 amended complaint would result in the dismissal of this action. Moreover, as Plaintiff
8 has had a number of prior opportunities to amend and has been unable cure the
9 deficiencies of his prior complaints, further leave to amend will not be granted.

10 CONCLUSION

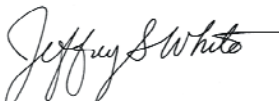
11 For the foregoing reasons and for good cause shown, this action is DISMISSED
12 without prejudice to Plaintiff filing his unrelated claims in separate complaints in new
13 cases.

14 Defendants' motion to review the second amended complaint (docket number 60)
15 is GRANTED. Plaintiff's motion for an extension of time in which to file the second
16 amended complaint (docket number 58) is GRANTED.

17 The Clerk shall close the file and enter judgment in favor of Defendants.

18 IT IS SO ORDERED.

19 DATED: November 8, 2010

20 
21 JEFFREY S. WHITE
22 United States District Judge
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UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

ALFRED ARTHUR SANDOVAL,
Plaintiff,

Case Number: CV08-00865 JSW

CERTIFICATE OF SERVICE

v.

JAMES TILTON et al,
Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on November 8, 2010, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Alfred Arthur Sandoval D61000
Pelican Bay State Prison
D2-105
P.O.Box 7500
Crescent City, CA 95532

Dated: November 8, 2010



Richard W. Wieking, Clerk
By: Jennifer Ottolini, Deputy Clerk